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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,873	11/11/2003	Irene A. Waldridge	55122/101/104	6735

5909 7590 09/09/2004

NAWROCKI, ROONEY & SIVERTSON
SUITE 401, BROADWAY PLACE EAST
3433 BROADWAY STREET NORTHEAST
MINNEAPOLIS, MN 554133009

EXAMINER	
DEMILLE, DANTON D	
ART UNIT	**PAPER NUMBER**
3764	

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/706,873	WALDRIDGE ET AL.	
	Examiner	Art Unit	
	Danton DeMille	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *8-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *8-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 8-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2 of U.S. Patent No. 6,645,165.

Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to leave out details of the sequence beginning in the trunk region and proceeding to the distal limb region.

Regarding claim 11, since the body extremity is tubular shaped, a wrap conforming to the shape of the body would also be arcuately shaped.

Claims 17-24 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2 of U.S. Patent No. 6,645,165 in view of Alekseeva (SU 498943) or Rosett (US 2,361,242). Both Alekseeva and Rosett teach a wrap for fitting about the human body. Alekseeva teaches the multi-ply material for the wrap and Rosett teaches the tabs for securing the wrap about the body. It would have been obvious to one of ordinary skill in the art to modify the patented claims to use multi-ply material as taught by

Alekseeva providing the details of the composition of the wrap and to include tabs and securing means as taught by Rosett to better secure the wrap about the human body.

Claims 8-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. 6,179,796 in view of Bullard.

It would have been obvious to one of ordinary skill in the art to modify the patent claims to sequence the inflation of the compartments in a distal to proximal and alternatively proximal to distal sequence as taught by Bullard to provide the details of operating sequence.

Claims 17-24 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. 6,179,796 in view of Alekseeva (SU 498943) or Rosett (US 2,361,242). It would have been obvious to one of ordinary skill in the art to modify the patent claims to include a plurality of layers as taught by Alekseeva and to include tabs and securing means on the wrap to secure the wrap about the human body.

Claim Rejections - 35 USC § 112

Claims 12-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 12, paragraph b., it is not clear what is meant by "reversibly pressurizing select compartments". Reversible compared to what? No clear sequence has been set forth to know how this is in reverse. Moreover, the reversible pressurization is recited "in a distal to proximal sequence" but then says its "beginning with a proximal most region.... to a distal most region". Which direction is applicant claiming?

Claims 13-16 recite the additional step of "reversibly pressurizing select compartments" however, didn't claim 12 already claim that in paragraph b.?

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 8-10, 17-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bullard (US 4,865,020) in view of Alekseeva (SU 498943) or Rosett (US 2,361,242).

Bullard teaches the method of body manipulation providing a wrap system adapted to fit about a body extremity including a trunk region 8 and limb regions 1-7. The plurality of compartments are selectively pressurized and depressurized in at least a first and second pressurization and depressurization sequence. One sequence starts with the distal limb region and proceeds to the trunk region, column 4, lines 51-60. Another sequence inflates the cuffs from the trunk toward the extremity, column 5, lines 6-10.

It is not clear if the wrap of Bullard comprehends the claimed wrap. The wrap of Bullard is adapted to fit about the body extremity and has a trunk region 8 and limb regions 1-7. It is composed of plurality of compartments 1-8 distributed throughout the regions. Each of the

compartments are selectively pressurized. It is not clear if the plurality of cuffs 1-7 comprise a "wrap". To any extent it is felt that the wrap of Bullard is not a wrap then both Alekseeva and Rosett are cited to teach wraps.

Alekseeva teaches a suit which clearly wraps around the body limbs and trunk. The suit includes a plurality of compartments selectively pressurized. Rosett also teaches a wrap that includes a trunk region and limb regions including a plurality of selectively pressurized compartments. Both of these references teach the advantage of being able to wrap a plurality of pressurized compartments about the body using a single unitary wrap so that one doesn't have to wrap each individual compartment about the body.

To any extent it is not felt the wrap of Bullard is not a wrap, it would have been obvious to one of ordinary skill in the art to modify Bullard to form the plurality of compartments as a wrap as taught by either Alekseeva or Rosett so that the plurality of compartments are more easily placed about the body.

The overall method of providing a wrap with a plurality of compartments for the function of sequentially pressurizing and depressurizing select regions of the body in first and second sequences is taught by Bullard. There appears to be no criticality to the details of how the wrap is made.

Regarding claim 17, the trunk wrap 8 of Bullard is of arcuate configuration in order to wrap around the trunk of the body. While Bullard may not teach a plurality of compartments over the trunk section it would have been obvious to add more to provide better movement of fluids within the trunk portion of the human body. Both Alekseeva and Rosett teach wraps for the trunk that include a plurality of compartments. It would have been obvious to one of ordinary skill in the art to modify Bullard to include more compartments for selective inflation as

taught by both Alekseeva and Rosett to expand on the Bullard device to better treat the flow of fluids within the trunk of the human body.

Regarding claims 18-22, Rosett teaches fastening elements 26 however, other equivalent alternative means of securing the wrap around the body would have been an obvious expedient to one of ordinary skill in the art.

Regarding claims 23, 24, Alekseeva teaches a multi-ply sheet of material.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 8-10 above, and further in view of Tobler et al.

Tobler teaches a simple unitary wrap providing a plurality of compartments in a compact unitary wrap with arcuately shaped compartments. It would have been obvious to one of ordinary skill in the art to further modify Bullard to shape the compartments arcuately as taught by Tobler to better conform to the shape of the body.

Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 8-10 above, and further in view of Wasserman.

To any extent these claims are understood the following would appear to be appropriate. Wasserman teaches that groups of compartments within a plurality of compartments can be inflated in any desired sequence in any order. It would have been obvious to one of ordinary skill in the art to further modify Bullard to selectively inflate compartments within a group of compartments as taught by Wasserman to customize the treatment for a particular patient's needs.

ddd
3 September, 2004
(703) 308-3713
Fax: (703) 872-9306
danton.demille@uspto.gov

Danton DeMille
Primary Examiner
Art Unit 3764